BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of	)	
	)	
PUBLIC UTILITIES COMMISSION	)	DOCKET NO. 2008-0273
	)	
Instituting a Proceeding to Investigate the Implementation of Feed-in Tariffs.	)	
	)	

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PUBLIC UTILITIES COMMISSION

ALEXANDER & BALDWIN, INC. through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY'S RESPONSES TO APPENDICES A & B IN APPENDIX C OF SCOPING PAPER

AND

CERTIFICATE OF SERVICE

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Appendix A: Cost Data Forms

(Responses are due in 45 days.)

According to the Joint Proposal on Feed-in Tariffs of the HECO Companies and Consumer Advocate filed on December 23, 2008 in this docket, biomass is not included as a technology that would be eligible for Feed-in Tariffs until the First FIT Update. Moreover, according to the HECO Companies, they are only proposing biomass projects up to several hundred kW be eligible for Feed-in Tariffs. HC&S does not have cost data for micro biomass projects because its current plant provides 12-16 MW and, in its opinion, biomass projects that only generate several hundred kWs is not cost effective. Accordingly, HC&S is unable to complete Appendix A of the NRRI Scoping Paper at this time. If the Commission during the course of these proceedings orders that biomass projects in the range of the HC&S plant are eligible for initial Feed-in Tariffs, HC&S would be able to provide cost data to the Commission under a protective order.

Appendix C: Questions

The Commission should direct the parties to respond to the following questions. Please provide detailed responses including supporting calculations and assumptions, underlying reasoning, and supportive citations. Responses to the threshold legal issues are due within 30 days. Responses to all other questions are due in 45 days.

Threshold Issues (Legal)

1. If the price associated with a feed-in tariff exceeds the utility's avoided cost, then by definition the utility's customers will incur higher costs than they would in the absence of the feed-in tariff. Please comment on the legal implications of this result. For example:

a) Is this result permissible under current Hawaii statutes?

b) Does HRS § 269-27.2 create a ceiling on the feed-in tariff price?

c) If so, how do the signatories to the Energy Agreement (or other parties to this proceeding) propose to demonstrate that each feed-in tariff price does not violate the statute?

2. As with any administrative agency decision, a Commission decision approving a feed-in tariff must be supported with substantial evidence.

a) Focusing on the price term, what evidence is legally necessary? Consider these options, among others:

i) evidence of actual costs to develop similar projects in Hawaii

ii) generic (i.e., non-Hawaii) evidence of costs associated with each particular technology

iii) evidence that the tariff price results in costs equal to or below the utility's avoided cost

b) By what process do the signatories (and other parties to this proceeding) propose to gather this evidence and present it the Commission, under the procedural schedule proposed by the signatories?

3. Assume the Commission does create feed-in tariffs, which entitle the seller to sell to the utility at the tariff price.

a) If the tariff price exceeds the utility's avoided cost, is there a violation of PURPA, provided the seller is relying on a state law right to sell rather than a PURPA right to sell?

b) If the tariff price exceeds the utility's avoided cost (as calculated prior to the existence of the tariff), could a seller assert a PURPA right to a sale at the tariff price, on the grounds that the utility now has a new "avoided cost" equal to cost it would have incurred under the state-mandated feed-in tariff?

c) If the price associated with a feed-in tariff is less than the utility's avoided cost, what benefit does the tariff offer the developer that is not already available under PURPA?

d) Please offer any other comments concerning the legal and practical relationship between the feed-in tariff and existing PURPA rights and obligations.

Other Threshold Issues

4. Feed-in tariffs, if approved by the Commission, would join an array of legislative and regulatory initiatives to boost production of renewables in Hawaii. Those initiatives include PURPA, the renewable portfolio standard, net metering and various distributed generation actions. Are there overlaps, redundancies, gaps among these multiple initiatives? What is the independent purpose of each of these, in relation to the others?

Response: Please note that because it is unclear from the question as to what is meant by "various distributed generation actions", this response does not address these initiatives.

PURPA, the renewable portfolio standard, net metering, and feed-in tariffs are distinct and independent initiatives which were designed and implemented to encourage the development of renewable energy and/or the efficient use of fossil fuels. These initiatives should be able to co-exist and compliment each other. Thus, Tawhiri would strongly object to any proposal that would attempt to eliminate and/or replace PURPA, the renewable portfolio standard, or net metering with feed-in tariffs.

Process and General Feed-in Tariff Issues

5. Please explain the criticality of completing the "best-design" phase of this investigation by March 2009 and having project-based FiTs in place by July 2009 as called for in the Agreement.

Response: Since HC&S was not a signatory to the Agreement it cannot explain, nor does it understand, the criticality of completing the "best-design" phase of this investigation by March 2009 and having the project-based FiTs in place by July 2009 as called for in the Agreement. Although HC&S fully supports any initiative that encourages the development of renewable energy and/or the efficient use of fossil fuels in Hawaii, it believes that any initiative must be done with careful deliberations. An investigation of FiTs raises many complex issues and would result in long-term legal obligations that will have far reaching consequences. Thus, the stakes are too high to risk the lack of prudence and work product quality for the sake of speed.

6. Please explain why project-based FiTs are superior to other methods that require a utility to purchase renewable electricity.

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S has yet to form an opinion as to how project based FiTs compare to other methods that require a utility to purchase renewable electricity. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

7. Please quantify the costs over avoided costs of an open-ended PBFiT program assuming the utility meets the RPS goals set forth in the Agreement.

Response: HC&S does not understand what is being asked for in this question. Perhaps, HC&S will be in a better position to respond once it has an opportunity to review and analyze the many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

8. Please quantify the benefits of lowering oil imports, increasing energy security, and increasing both jobs and tax base for the state mentioned in the Agreement.

Response: As a private company, HC&S is not in a position to quantify the benefits of lowering oil imports, increasing energy security and increasing both jobs and tax base for the state. Perhaps, HC&S will be in a better position to respond once it has an opportunity to review and analyze the many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

9. Is the goal to encourage as much use of renewable resources as possible as soon as possible, or is it to encourage the orderly introduction of renewable resources based upon cost effectiveness?

Response: See response to Question 5 above.

10. How long a period should exist between mandatory Commission reviews of the PBFiTs?

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S has yet to form an opinion as to how long a period should exist between mandatory reviews of the PBFiTs. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

PBFiT General Design Issues

11. Do each of the technologies listed as a renewable resource in the RPS legislation require a PBFiT?

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S has yet to form an opinion as whether each of the technologies listed as a renewable resource in the RPS legislation require a PBFiT. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

12. Should PBFiTs for certain technologies be established now while others are deferred?

Response: Perhaps, but since biomass is a proven technology with a long history of success in Hawaii, if PBFiTs are implemented, a PBFiT for biomass should be established.

13. Should the Commission cap purchases under PBFiTs? If yes, what is the maximum amount? Should individual caps be set for each technology? What period should the cap cover? What is the measurement for the cap (e.g., dollars, percent of sales, kW, or kWh)?

Response: No caps should be implemented unless it would lead to the curtailment of existing IPP generators with contracts to provide power to the utility or lead to system generation issues.

14. What limitations exist for integrating renewable resources onto the grid? Should these limits affect the PBFIT design or caps, or are they just another cost that developers must consider?

Response: HC&S as a private company that provides power to MECO is not in a position to respond to this question. Perhaps, HC&S will be in a better position to respond once it has an opportunity to review and analyze the many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

Specific Tariff Design Issues

15. How long should the Commission set for the PBFiT's term of obligation? Should it be different for different technologies? Is there a common basis (e.g., a conservative estimate of expected useful life) for establishing the term of

obligation? On what basis should a utility pay for electricity after the term expires?

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S has yet to form an opinion as whether each of the technologies listed as a renewable resource in the RPS legislation require a PBFiT. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

16. Should PBFiTs require the utility to purchase the project's gross or net output at the PBFIT price?

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S has yet to form an opinion as whether PBFiT should require the utility to purchase the project's gross or net output at the PBFiT price. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

17. How should the utility determine the price paid for renewable energy not covered by a PBFiT (e.g., purchases above the cap or beyond the term of obligation)?

Response: According to PURPA it should be paid at least avoided cost.

18. What inflation adjustment, if any, should the PBFiT include, using what base and indexes?

Response: Yes, an inflation adjustment should be included in the PBFiT rate. However, it is premature to delineate what base and index should be used because it would be specific to the project and the length of the term.

19. What milestones (e.g., commercial operations) should the Commission set to determine eligibility for the PBFiT? Are Hawaii's RPS statute requirements an eligibility requirement? Should utility affiliates be eligible to receive the PBFiT price?

Response: Proven technologies such as biomass should be eligible for the PBFiT. No utility affiliates should not be eligible to receive the PBFiT price because of conflict of interest or the appearance of conflict of interest issues.

20. Please comment on the need for stepped tariffs based upon location, size, fuel mix, and output.

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S has yet to form an opinion on the need for stepped tariffs based upon location, size, fuel mix, and output. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

21. Under what circumstances should the PBFiT price be time-differentiated?

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S has yet to form an opinion on whether the PBFiT price should be time-differentiated. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

22. How highly leveraged (i.e., bearing how much debt compared to equity) are these projects?

Response: HC&S cannot answer this because it is very project specific.

23. Does a PBFiT create a financing environment through a reliable revenue stream from the ratepayer to the investor, allowing for greater leverage and thus lower cost financing than would be available under an avoided-cost tariff?

Response: Generally yes, but would depend on the rate of the PBFiT.

24. If the PBFiTs are to encourage early development of resources, does the reasonable return need to be set higher for these early tariffs? Are there reasons other than encouraging early development to set the profit margin higher, such as risks associated with early implementation? Is this true across all project classes?

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S has yet to form an opinion on the inquiries posed in this question. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

25. Does the current "credit crunch" affect the financing costs, including expected profits by equity investors?

Response: It is reasonable to assume that the current economic conditions and "credit crunch" would have a detrimental impact on the financing costs and expected project financial returns.

Related Issues

26. Please provide a quantitative analysis demonstrating the public interest aspect of the concept that 10% of the utility's purchases under the feed-in tariff PPA should be

included in the utility's rate base through 2015. In addition to the overall prudence of the rate base recommendation, please address the 10% and 2015 date included in the Agreement.

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S is currently not in a position to respond to this question. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

27. What is the appropriate rate of return for the PBFiT portion of rate base that consists of a mandated purchase with guaranteed recovery and no capital outlay?

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S is currently not in a position to respond to this question. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

28. Are there preferable utility incentives, other than putting PBFiT revenues into the rate base, to encourage the development of renewable resources?

Response: Since this investigative docket has only recently begun and there are many documents and information yet to be submitted in this proceeding in accordance with the Commission ordered procedural schedule, HC&S is currently not in a position to respond to this question. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

29. Should the PBFiT require developers to assign credits (e.g., investment tax credits, renewable energy credits, and carbon credits) earned from a project to the purchasing utility as a condition of receiving payments under the PBFiT? If not, how should these credits be included in the estimation of a typical project's cost?

Response: No, if the utility is interested in the credits they should purchase them from the developer under a separate contract. HC&S is currently unable to answer the second part of the question because there currently is no REC market in Hawaii. Thus, HC&S reserves its right to address this question at a later date in this proceeding.

Respectfully submitted.

DATED: Honolulu, Hawaii, January 26, 2009.

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CERTIFICATE OF SERVICE

The foregoing Responses to Appendices A & C of Scoping Paper was served on the date of filing by hand delivery or electronically transmitted to each such Party.

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